

REMARKS

I. Introduction

With the addition of new claim 26, claims 11, 12, 14, 16-23, and 26 are pending in the present application, since claims 1 to 10, 13, 15, 24, and 25 were previously canceled. Claims 11 and 19 have been amended and are fully supported by the original disclosure. For at least the reasons set forth below, Applicants submit that the pending claims are in condition for allowance.

II. Rejection of Claims 11, 12, 14 and 16-23 under 35 U.S.C. §112, ¶1

Claims 11, 12, 14 and 16-23 stand rejected under 35 U.S.C. §112, ¶1 as failing to comply with the enablement requirement. In particular, the Examiner believes that the specification does not adequately describe “performing an error diagnosis of software running on the other components” and “allowing a remote testing and diagnosis of the other components of the distributed system to be carried out.” Further, the dependent claims are rejected for incorporating the above subject matter. Specifically, the Examiner objects to (1) “not mentioning any steps to be carried out regarding the test” and (2) that “it [is] unclear . . . how the remote diagnosis and testing are indeed different from each other.”

As regards the first objection, Applicants respectfully assert that one of ordinary skill in the art would be able to implement the claimed subject matter without undue experimentation. Component diagnosis/testing is known in the art and dependent on the specific device being diagnosed/tested. The invention is not “performing an error diagnosis” in-and-of-itself, but rather the entire claimed subject matter. To that end, the “performing an error diagnosis” is in accordance with the specific implementation of the invention, but a diagnosis/testing itself for any particular implementation would be understood by one of ordinary skill in the art, without having to perform undue experimentation.

As regards the second objection, Applicants believe that the objection has been rendered moot by the amendment to claims 11 and 19. In view of the foregoing, it is respectfully submitted that claims 11, 12, 14 and 16-23 fully comply with the enablement requirement of 35 U.S.C. §112, ¶1.

III. Rejection of claims 11-12, 14, 17-20 and 23 under 35 U.S.C. §103(a)

Claims 11-12, 14, 17-20 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,370,449 to Razavi (“Razavi”) in view of U.S. Patent No. 6,512,968 to de Bellefeuille et al. (“de Bellefeuille”). It is respectfully submitted that none of claims 11-12, 14, 17-20 and 23 is obvious over Razavi in view of de Bellefeuille, for at least the following reasons.

Claims 11 and 19, recite the feature of, *inter alia*, a service element, disposed within a motor vehicle, which performs operations including “performing an error diagnosis of software running **on the other components**.” The recited “components” of claims 11 and 19 are independent of one another and interconnected via a bus. As regards the operation of “performing an error diagnosis ...,” the Examiner acknowledges that Razavi does not disclose this feature, and instead relies on de Bellefeuille.

De Bellefeuille describes a computerized automotive servicing device, as may be hooked up (*i.e.*, externally) to the electrical system of a motor vehicle. (e.g. col. 8, lines 10-21 describing the invention as used in a wheel alignment device). The automotive servicing device is not disposed within the motor vehicle, as recited in claim 11 and 19, but rather is manually connected to the vehicle during a servicing operation. Additionally, the “error diagnosis” allegedly described by de Bellefeuille at col. 11, lines 12-25 is not an error diagnosis of “the other components,” *i.e.*, other components which are interconnected via a bus within the motor vehicle, as recited in claims 11 and 19. Instead, the file integrity check tool apparently checks files that appear to be stored on the same device as the file integrity check tool.

In the “Response to Arguments” section, the Office Action asserts that Razavi discloses a service element that maintains other components and de Bellefeuille discloses that maintenance may include performing an error diagnosis. Specifically, the Office Action asserts that col. 13, lines 53-61 and col. 15, lines 6 to 13 of Razavi discloses a service element that maintains other components. The former cited section merely indicates that the configuration of components as network devices simplifies re-configuration of a vehicle, since software may be quickly and easily retrieved from external sources which can be accessed through communication devices. The cited section provides no information regarding the initiation of such retrieval, and makes no mention whatsoever of a device of the system performing any kind of maintenance. The latter section merely indicates that the in-car network of a car, when the car pulls into a service station, can form a single network with

the service station via which the service station may perform necessary services. The cited section does not disclose any component of the in-car network, for example, that performs maintenance upon any other component of the in-car network. Indeed, any review of the Razavi reference makes plain that it does not disclose or suggest the features of a service element that performs maintenance of any kind of other components of the distributed system to which the service element belongs, as provided for in the context of claims 11 and 19.

In this regard, it is noted that claims 11 and 19 provides a novel step-wise approach to component maintenance, by providing a service element in a distributed system to handle initial maintenance and testing of other components of the distributed system and that also provides further remote diagnosis, e.g., where the service element is unable to perform the diagnosis.

Thus, the system of Razavi, modified to include features of de Bellefeuille, does not disclose or suggest all of the features of either of claims 11 and 19.

Additionally, claims 11 and 19 recite that the service element performs the operation of “allowing a remote diagnosis of the other components of the distributed system to be carried out, wherein the remote diagnosis includes **testing** at least one of **the other components**.” With respect to this feature, the Examiner apparently relies on col. 15, lines 3-10 of Razavi. As explained in Applicants’ Response filed January 11, 2008, this section of Razavi describes that a service station may request service records of the vehicle so that any necessary service may be performed. This section does not describe any remote diagnosis that includes testing of other components.

For at least the foregoing reasons, Razavi in view of de Bellefeuille does not render claims 11 and 19 obvious. Claims 12, 14, 16-18, and 20-23 depend from one of claims 11 and 19; accordingly, the subject matter of these claims are not obvious over Razavi in view of de Bellefeuille for at least the same reasons.

Withdrawal of this rejection is therefore respectfully requested.

IV. Rejection of claim 16 under 35 U.S.C. §103(a)

Claim 16 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Razavi in view of de Bellefille and further in view of U.S. Patent No. 6,330,499 (hereinafter referred to as “Chou”). Claim 16 depends from claim 11 and as discussed above, Razavi and de Bellefille do not describe or suggest all of the features of claim 11. Additionally, Chou has not been asserted to overcome the deficiencies of the Razavi / de Bellefille combination. Therefore, for at least the reasons stated above, Applicants request withdrawal of the present rejection.

V. Rejection of claim 21 under 35 U.S.C. §103(a)

Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Razavi in view of de Bellefille and further in view of U.S. Patent No. 5,465,207 (hereinafter referred to as “Boatwright”). Claim 21 depends from claim 14 and as discussed above, Razavi and de Bellefille do not describe or suggest all of the features of claim 11. Additionally, Boatwright has not been asserted to overcome the deficiencies of the Razavi / de Bellefille combination. Therefore, for at least the reasons stated above, Applicants request withdrawal of the present rejection.

VI. Rejection of claim 22 under 35 U.S.C. §103(a)

Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Razavi in view of de Bellefille and further in view of U.S. Patent No. 5,964,813 (hereinafter referred to as “Ishii”). Claim 22 depends from claim 11 and as discussed above, Razavi and de Bellefille do not describe or suggest all of the features of claim 11. Additionally, Ishii has not been asserted to overcome the deficiencies of the Razavi / de Bellefille combination. Therefore, for at least the reasons stated above, Applicants request withdrawal of the present rejection.

VII. Rejection of claims 11-12, 14, 16-21 and 23 under 35 U.S.C. §103(a)

Claims 11-12, 14, 16-21 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,185,491 (hereinafter referred to as “Gray”) in view of Buckley and further in view of Chou. It is respectfully submitted that none of claims 11-12, 14, 16-21 and 23 is obvious over Gray in view of Buckley, and in view of Chou, for at least the following reasons.

Each of claims 11 and 19 recites, inter alia, the following:

performing an error diagnosis of software running on the other components, and, if the software on one of the other components has an error, correcting that software;

The Office Action asserts that Gray discloses a service element that maintains other components and that Buckley discloses the precise error diagnosis of claims 11 and 19. However, nowhere does Gray disclose a service element that maintains other components as provided for in the present claims. For example, the Office Action refers to col. 4, line 65 to col. 5, line 8 as assertedly disclosing a service element that performs upgrading and maintenance of other components on a distributed system to which the service element belongs. The cited section merely indicates that a URL may be stored and may be used for accessing a manufacturer’s interface, but does not describe the initiation of such access and does not indicate any component that performs maintenance, e.g., using the URL. The Office Action is apparently reading into Gray more than that which is actually stated, apparently relying on improper hindsight based on Applicants’ disclosure to interpret the cited sections of Gray as disclosing the features of claims 11 and 19.

As for the error diagnosis for which the Office Action relies on Buckley, the Examiner apparently relies on Buckley at col. 8, lines 46-63, and, for the correcting of the software, apparently relies on Buckley at col. 9, lines 38-55 and col. 10, lines 27-33. Respectfully, in these sections of Buckley, software on other components is not being diagnosed for errors, and software on other components is not being corrected. These sections of Buckley appear to describe that CIPN microprocessor checks firmware that runs on itself. (Buckley at col. 9, lines 29-30.) The CIPN microprocessor also checks firmware updates that are (1) not yet running on any component, and (2) upon future execution, will only run on the CIPN microprocessor (*i.e.*, itself). (Buckley at col. 9, lines 33-36.) At no point does Buckley disclose “performing an error diagnosis of software running on the other components.” The Examiner admits as much, arguing instead that Buckley discloses

“performing an error diagnosis of software **running** on” and Gray discloses “the **other** components.” However, as noted above, the cited sections of Gray do not disclose a service element that performs maintenance of any kind of other components of a distributed system to which the service element belongs.

Thus, the system of Razavi, modified to include features of de Bellefeuille, does not disclose or suggest all of the features of either of claims 11 and 19.

Each of claims 11 and 19 also recites, inter alia, the following:

allowing a remote diagnosis of the other components of the distributed system to be carried out, **wherein the remote diagnosis includes testing** at least one of **the other components**;

As regards this feature, neither Gray nor Buckley disclose “the remote diagnosis includes testing at least one of the other components.” Instead, the Examiner relies on Chou at col. 3, lines 15-31 and col. 5, lines 34-35. However, the remote service center 200 (including diagnostic server 201) is thoroughly discussed at Chou col. 5, line 33 to col. 6, line 47, and does not mention “wherein the remote diagnosis includes testing at least one of the other components.” “Diagnostic server 201 [may have] access to data related to the vehicle such as as-built, history, diagnostics, warranty, service information and failure mode data.” (Chou, col. 5, lines 35-37.) The section goes on to further describe data collection and modeling, but nowhere does Chou disclose a “remote diagnosis include[ing] **testing** at least one of the **other** components.”

For at least the foregoing reasons, it is respectfully submitted that the combination of Gray, Buckley and Chou does not render obvious claims 11 and 19. Also, claims 12, 14, 16-18, and 20-23 depend from one of claims 11 and 19, thus, the subject matter of these claims is also not rendered obvious.

Withdrawal of this rejection is therefore respectfully requested.

VIII. Rejection of claim 22 under 35 U.S.C. §103(a)

Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Gray in view of Buckley, Chou and U.S. Patent No. 4,866,713 (hereinafter referred to as “Worger”). Claim 22 depends from claim 11 and as discussed above, Gray, Buckley and Chou do not describe or suggest all of the features of claim 11. Worger does not cure the deficiencies of Gray, Buckley and Chou (nor has it been relied on for such). Therefore, for at least the reasons stated above, Applicants request withdrawal of the present rejection.

IX. New Claim 26

Claim 26 has been added herein. Claim 26 does not add new matter and is supported by the present application including the specification as originally filed. Claim 26 relates to a service element that belongs to a distributed system in a motor vehicle and that includes a processing device that automatically performs an error diagnosis of software running on other components of the distributed system, repairs certain diagnosed errors, and contacts a provider and allows the provider to responsively remotely repair other diagnosed errors. None of the cited references discloses or suggests such a step-wise method of component diagnostics and repair. Accordingly, claim 26 is allowable.

IX. Conclusion

In light of the foregoing, Applicants respectfully submit that all of the pending claims 11-12, 14, 16-23, and 26 are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

KENYON & KENYON LLP

Dated: July 23, 2008

By:  / (Reg. No. 59,210) for:
Gerard Messina
Reg. No. 35,952

One Broadway
New York, NY 10004
(212) 425-7200

CUSTOMER NO. 26646